

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

RICHARD BLASSBERG,

Plaintiff,

-against-

PHILIP AMICONE, individually, EDMUND
HARTNETT, individually, JOHN A.
LISZEWSKI, individually, DANIEL
BARAHONA, individually, ROBERT GRECO,
individually, PAUL WOOD, individually, DAVID
MASON, individually, JOSEPH GALINSKI,
individually, RICHARD MADDAFARI,
individually, EILEEN AHEARN, individually,
RICHARD ALAIMO, individually, the CITY OF
YONKERS, New York, and City of Yonkers'
SANITATION WORKERS #1 to #20,

Defendants.

ECF Case

08 Civ. 1506 (CLB)(GAY)

REPLY TO COUNTERCLAIMS

PHILIP AMICONE,

Third-Party Plaintiff,

-against-

THE GUARDIAN NEWS, INC. and SELIM
ZHERKA,

Third-Party Defendants.

Third-Party Plaintiff Philip Amicone ("Amicone"), by and through his attorneys DelBello Donnellan Weingarten Wise & Wiederkehr, LLP, as and for his Reply to Counterclaims contained in the Third-Party Answer ("Answer") raised by Third Party Defendants The Guardian News, Inc. and Selim Zherka ("Third Party Defendants"), alleges as follows:

1. Amicone denies each and every allegation contained in paragraph numbered 1-10 of the Answer and respectfully refers all questions of law to the Court for judicial determination.

AS AND FOR A REPLY TO THE FIRST COUNTERCLAIM

2. Amicone denies each and every allegation contained in paragraph numbered 11 of Third Party Defendants' Counterclaim.

3. Amicone denies each and every allegation contained in paragraph numbered 12 of Third Party Defendants' Counterclaim and respectfully refers all questions of law to the Court for judicial determination.

AS AND FOR A REPLY TO THE SECOND COUNTERCLAIM

4. Amicone denies each and every allegation contained in paragraph numbered 13 of Third Party Defendants' Counterclaim.

5. Amicone denies each and every allegation contained in paragraph numbered 14 of Third Party Defendants' Counterclaim and respectfully refers all questions of law to the Court for judicial determination.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

6. Amicone's counterclaims do not violate Third Party Defendants' rights under the First Amendment to the United States Constitution.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

7. Amicone's claims are not unlawful by reason of the alleged failure to obtain authorization by the City Council of the City of Yonkers to expend public moneys.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

8. Payment by the City of Yonkers for legal services in this case does not constitute an unlawful gift of public moneys in violation of the New York State Constitution.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

9. Amicone's claims comply with CPLR 3016(a) of the New York State Civil Practice Law and Rules.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

10. Statements made by Third Party Defendants do not constitute speech protected by the First Amendment of the Constitution and are actionable for damages.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

11. The statements made by Third Party Defendants are not protected by any privilege cognizable under federal or state law.

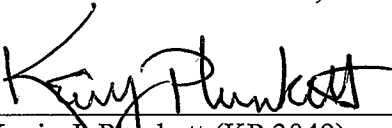
AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

12. Third Party Defendants' counterclaims fail to state a claim upon which relief can be granted.

Dated: White Plains, New York
June 10, 2008

DELBELLO DONNELLAN WEINGARTEN
WISE & WIEDERKEHR, LLP

By:


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Philip Amicone